IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3167 OF 2006

Dastamma M. Banjara & Ors. .. Petitioners.

vs.

Chveer Raju & Ors. . .. Respondents.

Mr. N.B. Kotak for petitioners.

Mr. A.S. Vidyarthi for Respondents.

CORAM : A.P. DESHPANDE, J.

DATE : 10th November, 2006.

P.C.

. The heirs of one Mahadev filed an application under Section 140 of the Motor Vehicles Act before the Motor Accidents Claims Tribunal, Mumbai and the rejection of the said application against the insurance company has given rise to the filing of the present petition.

2. It is the case of the petitioners that the deceased was a workman engaged in the working on dumper for the purposes of loading and unloading and the accident has occurred during the course of his employment. Whereas it is the case of the insurance

company that the deceased was travelling as a passenger and hence the petitioners are not entitled to compensation from the insurance company. It is submitted that there is nothing on record to indicate that the deceased was working as labourer engaged by the owner of the vehicle on the dumper. Perusal of the order passed by the MACT records a finding that there is absolutely no pleading either in the application or the complaint filed under Section 166 that the deceased was engaged by the owner as the labourer.

3. I have perused the applications under section 166 and 140 and the same are silent about the nature of the work and/or the relationship between the deceased and the owner of the vehicle. The MACT has rejected the claim made by the petitioners under section 140 against the insurance company by taking a possible view of the matter and hence, no interference is called for in exercise of discretion under Article 227 of the Constitution of India.

4. In the result, the writ petition fails and the same is summarily dismissed.

(A.P. Deshpande, J.)